

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 20916

Application 30373 of Bewley-Motluk Family Limited Partnership

c/o Stuart Bewley, 160 Bella Vista Avenue, Belvedere, CA 94920

filed on June 20, 1994, has been approved by the State Water Resources Control Board
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source: <u>1) Unnamed Stream</u> <u>2) Unnamed Stream</u> <u>3) Unnamed Stream</u> <u>4) Unnamed Stream</u>	Tributary to: <u>Mud Springs Creek thence</u> <u>Ten Mile Creek</u> <u>Ten Mile Creek thence</u> <u>South Fork Eel River</u>
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2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
1) North 875 feet and East 4,000 feet from SW corner of Section 3	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	3	21N	15W	MD
2) South 2,000 feet and West 1,000 feet from NE corner of Section 3	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	3	21N	15W	MD
3) South 500 feet and East 1,750 feet from NW corner of Section 3	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	3	21N	15W	MD
4) South 2,438 feet and East 2,750 feet from NW corner of Section 3	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	3	21N	15W	MD

County of Mendocino

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	IF IRRIGATED	
						Number of Acres	Presently cultivated (Y/N)
Recreational, Wildlife Preservation & Enhancement, Fire Protection & Stockwatering at Reservoir No. 1	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	3	T21N	R15W	MD		
Reservoir No. 2	SW $\frac{1}{4}$ of NE $\frac{1}{4}$	3	T21N	R15W	MD		
Reservoir No. 3	NE $\frac{1}{4}$ of NW $\frac{1}{4}$ NW $\frac{1}{4}$ of NW $\frac{1}{4}$	3	T21N	R15W	MD		
Reservoir No. 4	NE $\frac{1}{4}$ of SW $\frac{1}{4}$ NW $\frac{1}{4}$ of SE $\frac{1}{4}$ SE $\frac{1}{4}$ of NW $\frac{1}{4}$ SW $\frac{1}{4}$ of NE $\frac{1}{4}$	3	T21N	R15W	MD		
Irrigation & Frost Protection	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	3	21N	15W	MD	25	No
	SE $\frac{1}{4}$ of SE $\frac{1}{4}$	3	21N	15W	MD	25	No
	NE $\frac{1}{4}$ of SE $\frac{1}{4}$	3	21N	15W	MD	25	No
	NW $\frac{1}{4}$ of NW $\frac{1}{4}$	3	21N	15W	MD	25	No
	NE $\frac{1}{4}$ of SW $\frac{1}{4}$	3	21N	15W	MD	20	No
	SE $\frac{1}{4}$ of NW $\frac{1}{4}$	3	21N	15W	MD	5	No
					TOTAL	125	

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed a total of 199.6 acre-feet per annum to be collected from November 1 of each year to March 31 of the succeeding year as follows: 49.9 acre-feet per annum in Reservoir No. 1, 49.9 acre-feet per annum in Reservoir No. 2, 49.9 acre-feet per annum in Reservoir No. 3, and 49.9 acre-feet per annum in Reservoir No. 4. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose. (000005I)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants. (0000006)

7. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2001. (0000008)

8. Complete application of the water to the authorized use shall be made by December 31, 2005. (0000009)

9. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued. (0000010)

10. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit. (0000011)

11. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

12. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

13. The State Water Resources Control Board reserves jurisdiction to impose conditions to conform this permit to Board policy on use of water for frost protection. Action by the Board will be taken only after notice to interested parties and opportunity for hearing. (0000020)

14. During the season specified in this permit, the total quantity and rate of water diverted, stored, and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion, storage, and use, respectively, specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an adjudication or other legally binding proceeding, the quantity and rate of diversion, storage, and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the State Water Resources Control Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021)

15. Permittee shall install and maintain an outlet pipe of adequate capacity in each dam near as practicable to the bottom of the natural stream channel in order that water entering the reservoir, which is not authorized for appropriation under this permit, can be released (A trickle tube capable of releasing the mandatory bypass is recommended). Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in each reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050044)

No water shall be diverted under this permit until permittee has installed a device(s) satisfactory to the State Water Resources Control Board, which is/are capable of measuring the bypass flow(s) required by the conditions of this permit. Said measuring devices shall be properly maintained by permittee. (0060062)

16. No project related work shall begin or water diverted under this permit until permittee has submitted to the Chief of the Division of Water Rights:

A. A plan to repair on-going erosion at the newly constructed dam at Reservoir No. 1. The plan shall be prepared by a civil engineer or other professional with experience in dam construction in the project area.

B. Plan(s) for the construction of dams identified in the above described application. The plan(s) shall be prepared by a civil engineer or other professional with experience in dam construction in the project area. This plan(s) shall address erosion control and stability during a minor seismic event.

C. A Stream Bed Alteration Agreement with the California Department of Fish and Game that defines the agreed upon bank stabilization and erosion control measures needed at the four dam locations identified in the above described application. (0400500)

17. For the protection of fish and wildlife, permittee shall bypass a minimum of 0.5 cfs or the natural flow, whichever is less, from Reservoirs 1 and 2. (0140060)

18. The permittee shall implement the Bullfrog and Non-Native Fish Management Plan. The plan is on file in Application 30373 at the State Water Resources Control Board. (0400500)

19. The permittee shall implement the Oak Woodland Management Plan submitted by California Department of Fish and Game. The Plan is on file in Application 30373 at the State Water Resources Control Board. (0400500)

20. The permittee shall implement a Wildlife Habitat Management Plan. The plan is on file in Application 30373 at the State Water Resources Control Board. (0400500)

21. The archeological sites identified as Bewley-Motluk No. 1, No. 2, and No. 3 shall not be impacted by any of the developments proposed in Application 30373. The sites shall be excluded from the proposed project place of use (i.e. irrigated vineyards and hay crops) and shall not be otherwise impacted by any project developments resulting from the proposed water diversions, storage, and use. Developments at the locations of these archeological sites may be allowed following the completion of a cultural resource mitigation program approved by the Chief of the Division of Water Rights. If any evidences of previously unrecorded cultural resources are discovered during project activities, activities shall cease within 100 feet of the discovery until the significance of the find can be evaluated by a professional archeologist, and appropriate mitigation measures (as required by the Chief of the Division of Water Rights, SWRCB) completed. (0380500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

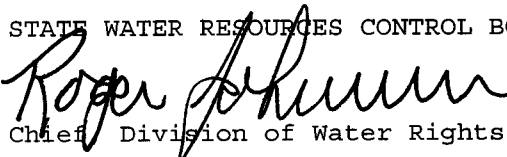
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: MAY 12 1997

STATE WATER RESOURCES CONTROL BOARD

for 
Chief, Division of Water Rights